

REMARKS

I. Status of the claims

By this Amendment, claims 1, 7, 24-26 and 28 have been amended and claims 13-18 and 27 have been cancelled. Thus, claims 1-12, 19-26 and 28 are pending. The amendments are supported by the specification and claims as originally filed. No new matter has been added

II. Election of Species Requirement

Applicant confirms the provisional election referenced in the Office Action at pages 2-3, and have cancelled withdrawn claims 13-18 in an effort to put the application in condition for allowance.

III. Rejections Under 35 U.S.C. § 112

Claims 1 and 25-27 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. (Office Action, pg. 7-8.) Claim 28 was rejected under 35 U.S.C. § 112, first paragraph (enablement). (*Id.*) Applicant respectfully submits that the rejections are moot in view of the amendments presented herein, as discussed further below.

(a) Claim 1: The structure for “general formula 1” has been added.

(b) Claim 25: The phrase “which is exhibiting thrombopoietin receptor agonism” has been amended to recite --in an amount effective for exhibiting thrombopoietin receptor agonism---.

(c) Claim 26 has been amended to recite --A pharmaceutical composition containing a compound as an active ingredient...--, as more specifically set forth in the present Amendment.

(d) Claim 27 has been cancelled.

(e) Claim 28 has been amended, such that it is directed to --A method for treating or preventing hemopathy--, as more specifically set forth in the present Amendment.

IV. Rejections Under 35 U.S.C. § 101

Claim 27 was rejected under 35 U.S.C. § 101. (Office Action, page 9.) This rejection is moot in view of the cancellation herein of claim 27.

V. Rejections Under 35 U.S.C. § 102

Claims 1-12 and 19-25 were rejected under 35 U.S.C. § 102(b) as being anticipated by EP 1253142 ("EP 142") to Takemoto et al. Applicant respectfully traverses for at least the following reasons.

The Office cites to formula (III) on page 9 of EP 142, and selects chemical groups to allegedly form the compounds according to the presently claimed invention. (Office Action, p. 9.) Applicant respectfully submits that such picking and choosing from a generic formula is not a teaching of all the features of the claimed compounds and does not anticipate the present claims. *In re Arkley*, 455 F.2d 586, 587 (CCPA 1972).

The Office also cites to compounds designated RN 351434-95-2, RN 351434-96-3, and RN 351434-97-4. (Office Action, pg. 10.) While such designations do not appear to be found within EP 142, Applicant understands from the Examiner's search notes in the PAIR database, that these designations correspond, respectively, to compounds H-5, H-6, and H-7, found in Table 24 on pages 47 and 48 of EP 142. These compounds fail to anticipate the present claims for at least the following reasons.

Compounds H-5 (RN 351434-95-2) and H-6 (RN 351434-96-3) do not anticipate any of the claims as a para-methyl substituted benzyz "Z" group, to use the

nomenclature of EP 142, is not within the scope of claimed formula I (claim 1), II (claim 7), or II-A (claim 19).

EP 142 compound H-7 (RN 351434-97-4) is also outside of the scope of the claimed formulae because the compound of H-7 has a halogen atom at R⁶ position and hydrogen atom at R⁷ position. In contrast, general formula I of claim 1 is directed to compounds wherein R⁷ is not a hydrogen atom and where, when R² and R³ are chlorine (as in H-7), R⁶ is also not a hydrogen. According to formula II (claim 7) and II-A (claim 19) it is likewise the case that neither R⁶ nor R⁷ are hydrogen, as in H-7.

Accordingly, EP 142 compounds H-5, H-6, and H-7 fail to anticipate any of claims 1, 7 or 19 for at least these reasons.

VI.Claim Objections

Claims 24-28 were objected to under 37 C.F.R. § 1.75(c) as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claim. Applicant respectfully submits that this rejection is moot in view of the amendments presented herein to revise the dependencies of claims 24-26 and 28, and the cancellation of claim 27.

VII. Conclusion


In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

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